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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,745	03/14/2006	Werner Kozek	2003P13559WOUS	9866
29177 7590 02/25/2009 BELI., BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690				
EXAMINER				
TRAN, QUOC DUC				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
02/25/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/571,745

**Applicant(s)**

KOZEK ET AL.

**Examiner**

Quoc D. Tran

**Art Unit**

2614

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10 and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eftechiou (6,002,747) in view of Gorka (2007/0001685) and further in view of Starr et al (2003/0021388).

Consider claims 10 and 21, Eftechiou teaches a method and arrangement for detecting a first communication device (*i.e., wiretapping or eavesdropping device*) connected to a subscriber line, comprising: examining a *characteristics or parameters (i.e., voltage, current or impedance)* of the subscriber line for a deviation (col. 3 lines 10-15; col. 7 line 53 – col. 8 line 26); and indicating detecting the first communication device if the deviation exceeds a threshold value (col. 3 lines 16-27; col. 8 lines 44-67; it should be noted that the alarm circuit provides both visual and audible indications), wherein a second and third communication device (*i.e., caller and called devices or participants communication devices*) is connected to the subscriber to transmit information between the second and third communication device (col. 9 lines 23-30).

Eftechiou suggest of detecting intruding devices such as fax, modem, or other automated transfer devices on the telephone line that carries voice or data (see col. 10 lines 53 – col. 11 lines 21). Thus, Eftechiou did not clearly suggest whether the telephone line that carries "data" is

a “digital subscriber line”. Eftechiou did not suggest of *examining a frequency range transmission function of the subscriber line for a deviation (i.e., examining the characteristics of a “digital” (DSL) transmission line)*. However, Gorka suggested of a system and method for monitoring the circuit properties (analog and digital) to detect wiretapping or eavesdropping on the DSL circuit (see par. 0002, 0005, 0011, 0018, 0046 and 0057).

Therefore, it would have been obvious to one of the ordinary skill in the art to incorporate the teaching of Gorka into view of Eftechiou detect intruding devices on any types of communications circuit such as DSL circuit.

Furthermore, Eftechiou and Gorka did not suggest where the frequency range transmission function is examined by at least one of the second and third communication device (*i.e., wiretapping or eavesdropping detection device is implemented in one of the customer premises communication equipment*). However, Starr et al teach the xDSL modem located at the customer premises for analyzing the “characteristics” signal of the telephone line to determine the integrity of the telephone line (abstract). Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate the teaching of Starr et al into view of Eftechiou and Gorka in order simplifying the wiretapping or eavesdropping detection device (loop examining function) by integrating into a modem.

Consider claims 12 and 13, Gorka teaches wherein the transmission function (characteristics of transmission line) detects the subscriber line in approximately periodic time intervals and an average of the transmission function is derived from the detection results, wherein the deviation of the transmission function from the average of the transmission function

is examined, and wherein the first communication device is detected when the deviation exceeds the threshold value (par. 0018, 0025, 0033, 0075).

Consider claims 14 and 17, Eftechiou teaches the claimed feature (see Fig. 1).

Consider claim 18, Eftechiou teaches wherein when the first communication device is a monitoring device (i.e., eavesdropping or wire-tapping device) (col. 8 lines 45-46).

Consider claims 15 and 19, the combination of Eftechiou and Gorka teach wherein information is transmitted between the second and third communication device according to an xDSL transmission (i.e., data transmission) method (col. 11 lines 10-15; col. 15 line 66 – col. 16 line 1).

Consider claims 16 and 20, the combination of Eftechiou and Gorka teach wherein the examining is carried out by an xDSL modem assigned to the first and/or second communication device (col. 11 lines 10-15; col. 15 line 66 – col. 16 line 1 and par. 0075).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 10, 11-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any response to this action should be mailed to:

Mail Stop \_\_\_\_ (explanation, e.g., Amendment or After-final, etc.)  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

**(571) 273-8300**

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Quoc Tran** whose telephone number is **(571) 272-7511**. The examiner can normally be reached on M, T, TH and Friday from 8:00 to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Curtis Kuntz**, can be reached on **(571) 272-7499**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600** whose telephone number is **(571) 272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Quoc D Tran/  
Primary Examiner, Art Unit 2614  
February 21, 2009